

National Credit Union Administration

§ 747.602

shall proceed to convert said assets to cash, collect all debts due to said Federal credit union and to wind up its affairs in accordance with the provisions of the Act.

[56 FR 37767, Aug. 8, 1991; 57 FR 523, Jan. 7, 1992]

§ 747.406 Cancellation of charter.

Upon the completion of the liquidation and certification by the agent for the liquidating agent that the distribution of the assets of the Federal credit union has been completed, the NCUA Board shall cancel the charter of the Federal credit union concerned.

Subpart F—Local Rules and Procedures Applicable to Proceedings Relating to the Termination of Membership in the Central Liquidity Facility [Reserved]

Subpart G—Local Rules and Procedures Applicable to Recovery of Attorneys Fees and Other Expenses Under the Equal Access To Justice Act in NCUA Board Adjudications

§ 747.601 Purpose and scope.

This subpart contains the regulations of the NCUA implementing the Equal Access to Justice Act (5 U.S.C. 504), as amended (“EAJA”). The EAJA provides for the award of attorneys fees and other expenses to eligible individuals and entities who are parties to proceedings conducted under this part. An eligible party may receive an award when it prevails over NCUA in a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the NCUA was substantially justified or special circumstances make an award unjust. The rules in this subpart describe the parties eligible for fee awards, explain how to apply for awards and the procedures and standards that NCUA will use to make them. To the extent a rule or procedure set forth in subpart A of this part is inconsistent with a rule or procedure set forth in this subpart G, subpart G will control.

§ 747.602 Eligibility of applicants.

(a) To be eligible for an award of attorneys fees and expenses, an applicant must be a prevailing party in the proceeding for which it seeks an award and must be:

(1) An individual with a net worth of not more than \$2 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than \$7 million, including both personal and business interests and not more than 500 employees at the time the proceeding was commenced (an applicant who owns an unincorporated business will be considered as an “individual” rather than a “sole owner of an unincorporated business” if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests);

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; or

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than \$7 million and not more than 500 employees.

(b) For the purpose of determining eligibility, the net worth of an applicant and the number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(c) The applicant’s net worth includes the value of any assets disposed of for the purpose of meeting an eligibility standard and excludes any obligations incurred for this purpose. Transfers of assets or obligations incurred for less than reasonably equivalent value will be presumed to have been made for this purpose.

(d) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant’s direction and control; part-time employees shall be included on a proportional basis.

(e) The net worth and number of employees of the applicant and all of its